

HOUSE BILL NO. 523

INTRODUCED BY M. REINHART

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROCEDURE FOR ADOPTING THE BOUNDARIES FOR ZONING DISTRICTS OR ADOPTING OR AMENDING ZONING REGULATIONS; ALLOWING THE BOARD OF COUNTY COMMISSIONERS TO SCHEDULE AN ELECTION ON A PROPOSED RESOLUTION FOLLOWING THE PROTEST OF A ZONING DISTRICT OR ZONING REGULATIONS; ALLOWING A CITIZEN OR GROUP OF CITIZENS TO PETITION FOR AN ELECTION FOLLOWING A PROTEST OF A ZONING DISTRICT OR ZONING REGULATIONS; REQUIRING THE COUNTY ATTORNEY TO PROVIDE AN IMPARTIAL DESCRIPTION OF THE PROPOSED RESOLUTION; PROVIDING LANGUAGE TO BE INCLUDED IN A PETITION FOR AN ELECTION; AND AMENDING SECTION 76-2-205, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 76-2-205, MCA, is amended to read:

"76-2-205. Procedure for adoption of regulations and boundaries. The board of county commissioners shall observe the following procedures in the establishment or revision of boundaries for zoning districts and in the adoption or amendment of zoning regulations:

(1) Notice of a public hearing on the proposed zoning district boundaries and of regulations for the zoning district must be published once a week for 2 weeks in a newspaper of general circulation within the county. The notice must state:

(a) the boundaries of the proposed district;

(b) the general character of the proposed zoning regulations;

(c) the time and place of the public hearing;

(d) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder.

(2) At the public hearing, the board of county commissioners shall give the public an opportunity to be heard regarding the proposed zoning district and regulations.

(3) After the public hearing, the board of county commissioners shall review the proposals of the planning board and shall make any revisions or amendments that it determines to be proper.

(4) The board of county commissioners may pass a resolution of intention to create a zoning district and to adopt zoning regulations for the district.

(5) The board of county commissioners shall publish notice of passage of the resolution of intention once a week for 2 weeks in a newspaper of general circulation within the county. The notice must state:

(a) the boundaries of the proposed district;

(b) the general character of the proposed zoning regulations;

(c) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder;

(d) that for 30 days after first publication of this notice, the board of county commissioners will receive written protests to the creation of the zoning district or to the zoning regulations from persons owning real property within the district whose names appear on the last-completed assessment roll of the county.

(6) Within 30 days after the expiration of the protest period, the board of county commissioners may in its discretion adopt the resolution creating the zoning district or establishing the zoning regulations for the district. However, if 40% of the freeholders within the district whose names appear on the last-completed assessment roll or if freeholders representing 50% of the titled property ownership whose property is taxed for agricultural purposes under 15-7-202 or whose property is taxed as forest land under Title 15, chapter 44, part 1, have protested the establishment of the district or adoption of the regulations, the board of county commissioners may not adopt the resolution and a further zoning resolution may not be proposed for the district for a period of 1 year.

(7) (a) If a protest is successful pursuant to subsection (6), the board of county commissioners may schedule an election on the proposed resolution if the board of county commissioners concludes that the protest may do any of the following:

(i) permit the unreasonable depletion or degradation of natural resources;

(ii) frustrate the maintenance and improvement of a clean and healthful environment in Montana for present and future generations;

(iii) frustrate the protection of the environmental life support system from degradation; or

(iv) otherwise be contrary to public health and safety or the general welfare.

(b) The board of county commissioners shall make a decision whether to schedule an election pursuant to subsection (7)(a) within 90 days of the successful protest.

(c) The board of county commissioners shall determine if the election will be a countywide election or an election of the voters within the proposed district and may:

1 (i) schedule a special election on the proposed resolution; or
2 (ii) place the proposed resolution on the ballot at the next regularly scheduled general election for which
3 ballot materials have not yet been prepared.
4 (d) The proposed resolution takes effect when the resolution receives a majority of votes in an election.
5 (8) (a) If a successful protest has occurred pursuant to subsection (6) and the board of county
6 commissioners has not taken action pursuant to subsection (7), the citizens of the county may petition the county
7 to place the resolution on the ballot. The citizen petition must substantially conform to the requirements set forth
8 in subsection (9) and must be filed with the county clerk and recorder no later than 210 days following the
9 successful protest.
10 (b) (i) Within 120 days following a successful protest made pursuant to subsection (6), any citizen or
11 group of citizens may submit to the county attorney for the affected county a request for an impartial description
12 of the proposed resolution and the nature of the zoning district or regulations that would be created if the
13 resolution is adopted.
14 (ii) Within 30 days of receiving the request, the county attorney shall provide the description to the citizen
15 or group of citizens that made the request. The description must:
16 (A) inform potential petition signatories of the most important aspects of the proposed zoning district or
17 zoning regulations; and
18 (B) identify areas of known controversy based on the county attorney's review of the public record for the
19 proposed resolution.
20 (iii) The description may not exceed 500 words except where necessary to adequately describe the
21 proposed district or regulation and the areas of controversy. However, the description may not exceed 1,000
22 words.
23 (c) (i) The county attorney shall provide a copy of the description prepared pursuant to subsection (8)(b)
24 to the county clerk and recorder, who shall include the description in a posted notice informing the public that
25 there is or may be a petition circulating for a vote on a proposed resolution pursuant to subsection (7).
26 (ii) The county clerk and recorder shall make the proposed resolution and any accompanying maps or
27 regulations available for public inspection during the period between publication of the notice and the date of the
28 vote on the resolution or until the clerk and recorder learns that a vote will not occur.
29 (d) (i) Within 30 days of receipt of a timely petition seeking an election, the county clerk and recorder
30 shall report to the board of county commissioners whether the form of the petition:

1 (A) substantially complies with the requirements of subsection (9); and

2 (B) includes valid signatures from at least 15% of the registered electors residing within the county.

3 (ii) If the county clerk and recorder finds that both of the requirements of subsection (8)(d)(i) are met, the
4 board of county commissioners shall place the proposed resolution before the electors as provided in subsection
5 (7)(c).

6 (9) Any petition created pursuant to subsection (8) may consist of multiple pieces of paper presented
7 together to the county clerk and recorder if each piece of paper includes the following contents:

8 (a) the following language or language substantially similar:

9 PETITION TO PLACE REFERENDUM NO. ON THE ELECTION BALLOT

10 If 15% of the registered voters in [insert name] County sign this petition, Resolution No.
11 [insert number] will appear on the ballot for the [next general election, the subsequent general
12 election, or a special election]. If a majority of voters vote for this resolution at that election, it
13 will become law.

14 Voters are urged to read the complete text of the proposed resolution [or the summary
15 of the resolution prepared by the County Attorney], which appears [on the reverse side of or
16 attached to] this petition. A signature on this petition is only to put the proposed resolution on the
17 ballot and does not necessarily mean the signer agrees with the resolution.

18 WARNING

19 A person who purposely signs a name other than the person's own to this petition, who
20 signs more than once for the same issue at one election, or who signs when not a legally
21 registered voter in the county is subject to a \$500 fine, 6 months in jail, or both.

22 Each person is required to sign the person's name and list the person's address or
23 telephone number in substantially the same manner as on the person's voter registration card
24 or the signature will not be counted.

25 (b) (i) the full text of the proposed resolution and associated regulations or, in the case of a resolution
26 amending existing regulations, the full text of the regulations to be amended and the proposed amendment; or

27 (ii) the description prepared by the county attorney pursuant to subsection (8)(b)(ii):

28 (c) numbered lines following the text or summary required by subsection (9)(b). Each numbered line
29 must contain spaces for the signature, date, residence address, and printed last name and first and middle initials
30 of the signer. In place of a residence address, the signer may provide the signer's post-office address or the

1 signer's home telephone number. An address provided on a petition by the signer that differs from the signer's
2 address as shown on the signer's voter registration card may not be used as the only means to disqualify the
3 signature of that petition signer.

4 (10) All registered electors must be eligible to vote on a resolution placed on the ballot pursuant to
5 subsection (7) or (8). "

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